

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: DECEMBER 6, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: ABEYANCE - VAR-25013 - APPLICANT/OWNER:
RICHMOND AMERICAN HOMES OF NEVADA, INC.**

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to the conditions for Rezoning (Z-0024-99), Site Development Plan Review (SDR-8581), and the Lone Mountain West Plan Development Standards if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is for a Variance to allow a seven-foot rear yard setback where a 10 foot setback is required for a Single Family Dwelling located at 10719 Dedham Court (Lot 30). Although the current lot accommodates a 12-foot rear yard setback, the applicant is proposing to move the rear property line five feet to the north with a Boundary Line Adjustment, thus resulting in a seven-foot rear yard setback. The applicant has explained that the Boundary Line Adjustment and the resulting Variance request are both required to remedy the placement of a retaining wall with a five-foot landscape planter in the rear yard of the opposing property.

Staff recommends denial of this request as it is completely self-imposed in nature.

BACKGROUND INFORMATION

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i> | |
|--|---|
| 2/04/04 | The City Council approved a Site Development Plan Review (SDR-3391) for a proposed private school, primary. The Planning Commission and staff recommended approval of this request. |
| 8/18/04 | The City Council approved a Major Modification (MOD-4484) to the Lone Mountain West Plan from NC (Neighborhood Commercial) to ML (Medium Low Density Residential). The Planning Commission recommended approval of this request, but staff recommended denial. |
| 5/26/05 | Site Development Plan Review (SDR-5565) was a request for a proposed 30-lot single-family residential development. Variance (VAR-5567) was a request to allow 9,285 square feet of open space where 9,900 square feet is the minimum required for a proposed 30-lot single-family residential development. These items were tabled at the request of the applicant. |
| 10/19/05 | The City Council approved a request for a Site Development Plan Review (SDR-8581) for a proposed 43-lot single-family residential development; and a Waiver of Section 3.5.3 of the Lone Mountain West Master Development Plan to allow a 3.5 foot setback where a setback of less than two feet or more than ten feet is required. The Planning Commission and staff recommended approval. |
| 11/03/05 | The Planning Commission approved a request for a Tentative Map for a 43-lot single family residential subdivision on 5.00 acres adjacent to the southwest corner of Cliff Shadows Parkway and Alexander Road. Staff recommended approval. |
| 11/08/07 | The Planning Commission accepted the applicant's request for an abeyance to the 12/06/07 Planning Commission meeting. Staff recommends denial. |

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| <i>Related Building Permits/Business Licenses</i> | |
|---|---|
| 10/09/07 | Building Permit #97822 issued for Single Family Dwelling Tract Home at 10723 Dedham Court. This permit has not received a final inspection. |
| <i>Pre-Application Meeting</i> | |
| 9/19/07 | A pre-application meeting was held with staff to discuss the requirements for submitting a Variance request that will be required with the completion of a Boundary Line Adjustment of the rear property line of eight separate parcels. |
| <i>Neighborhood Meeting</i> | |
| A neighborhood meeting is not required, nor was one held. | |
| <i>Field Check</i> | |
| 10/09/07 | <p>A field check was completed by staff with the following observations:</p> <ul style="list-style-type: none"> • The retaining wall and screen wall have been completed. • Construction on the single family dwelling to the south has been completed • The subject parcel (Lot 30) has forms in place waiting to cast the foundation. Rough plumbing has been installed. |

| <i>Details of Application Request</i> | |
|--|------------|
| <i>Site Area</i> | |
| Net Acres | 0.06 acres |

| Surrounding Property | Existing Land Use | Planned Land Use | Existing Zoning |
|-----------------------------|--------------------------|---|---|
| Subject Property | Undeveloped | PCD (Planned Community Development -Lone Mountain West) | P-D (Planned Development - Medium-Low Density Residential - Lone Mountain West Special Land Use Designation) |
| North | Undeveloped | PCD (Planned Community Development -Lone Mountain West) | P-D (Planned Development - Medium-Low Density Residential - Lone Mountain West Special Land Use Designation) |
| South | Single Family Dwelling | PCD (Planned Community Development -Lone Mountain West) | P-D (Planned Development - Medium-Low Density Residential - Lone Mountain West Special Land Use Designation) |

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| | | | |
|------|-------------|---|---|
| East | Undeveloped | PCD (Planned Community Development -Lone Mountain West) | P-D (Planned Development - Medium-Low Density Residential - Lone Mountain West Special Land Use Designation) |
| West | Undeveloped | PCD (Planned Community Development -Lone Mountain West) | P-D (Planned Development - Medium-Low Density Residential - Lone Mountain West Special Land Use Designation) |

| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---|------------|-----------|-------------------|
| Special Area Plan | | | |
| Lone Mountain West | X | | Y |
| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| Special Purpose and Overlay Districts | | | |
| Trails | | X | NA |
| Rural Preservation Overlay District | | X | NA |
| Development Impact Notification Assessment | | X | NA |
| Project of Regional Significance | | X | NA |

Lone Mountain West

This site is categorized under the ML (Medium-Low Density Residential) Lone Mountain West Special Land Use Designation. This special land use category provides for the development of higher density detached, single-family product types including, but not limited to, compact lots and zero lot line, and two story buildings (up to 12 dwelling units per gross acre) within the Lone Mountain West Master Plan Area.

DEVELOPMENT STANDARDS

The following required standards were established with the approval of Site Development Plan Review (SDR-8581)

| <i>Standard</i> | <i>Required/Allowed</i> | <i>Provided</i> | <i>Proposed</i> | <i>Compliance</i> |
|----------------------|-------------------------|-----------------|-----------------|-------------------|
| Min. Setbacks | | | | |
| • Front | 10 Feet | 10 Feet | 10 Feet | Y |
| • Side | 3.5 Feet* | 3.5 Feet* | 3.5 Feet* | Y |
| • Corner | 3.5 Feet | 3.5 Feet | 3.5 Feet | Y |
| • Rear | 10 Feet | 12 Feet | 7 Feet | Y** |
| Max. Building Height | 2 Stories / 35 Feet | 2 Stories | | Y |

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**The Lone Mountain West Master Plan stipulates in section 3.5.3 that internal property line setbacks shall be either two feet (2') and smaller or ten feet(10') and greater. A Waiver for the 3.5 feet side yard setback was approved as a part of the Site Development Plan Review (SDR-8581).*

***Although the current configuration complies with the 12-foot rear yard setback as established with the approval of SDR-8581, the applicant is seeking to complete a Boundary Line Adjustment that will relocate the rear property line of this property five feet to the north.*

ANALYSIS

This Variance request for the .06 acre parcel at 10719 Dedham Court (Lot 30 of the Alexander/Cliff Shadows Residential Subdivision) has been submitted in conjunction with three adjacent Variance requests that are similar in nature. The applicant is seeking to secure approval of the requested Variance to allow a seven foot rear yard setback prior to making a five-foot adjustment to the rear property lines for eight separate dwelling units. The Variance will be required if the Boundary Line Adjustment is approved, as the existing 12-foot setback will only reduced to a seven-foot setback where a ten-foot setback is required.

Because the applicant is seeking to remedy a self-imposed hardship with the relocation of a property line versus rebuilding an improperly placed wall, staff recommends denial.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.18.070(L) states:

"Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution."

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by failing to adhere to their own approved site plan by improperly installing a retaining wall into the rear yard of the adjoining property. An alternative would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 4

SENATE DISTRICT 9

NOTICES MAILED 227

APPROVALS 1

PROTESTS 2